

# **Exhibit 34**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

-----: :  
SONY MUSIC ENTERTAINMENT, et al., :  
Plaintiffs, :  
-vs- : Case No. 1:18-cv-950  
COX COMMUNICATIONS, INC., et al., :  
Defendants. :  
-----:

HEARING ON MOTIONS

January 25, 2019

Before: John F. Anderson, U.S. Mag. Judge

APPEARANCES:

Matthew J. Oppenheim, Scott A. Zebrak, Jeffrey M. Gould,  
and Kerry M. Mustico, Counsel for the Plaintiffs

Thomas M. Buchanan, Jennifer A. Golinveaux, and  
Sean R. Anderson, Counsel for the Defendants

1 moving target. We would love to have a bilateral discussion  
2 about search terms and ESI, Your Honor. We come back to that  
3 over and over again.

4 Again, the requests that they issued here were  
5 prolific and broad. We made an effort to describe categories  
6 that -- of documents that we were going to produce, and that's  
7 on page 24 of our opposition brief, Your Honor. We laid out  
8 six, six categories.

9 We said that we would produce documents for the  
10 period of 2012 to 2014, but we extended that period for one  
11 category, and that was to the extent that the defendants wanted  
12 documents about the reliability of the MarkMonitor system, that  
13 we would not time restrict that.

14 To the extent that, obviously, that we can get access  
15 to those old documents. But, yes, we -- so that's the time  
16 frame that we've agreed to produce, Your Honor.

17 As you noted, I mean, many of these requests should  
18 probably better be directed to MarkMonitor, who has their own  
19 counsel, and I presume is responding to the subpoena that was  
20 issued to them.

21 So -- but to be clear, Your Honor, kind of,  
22 MarkMonitor, these requests seek a lot of things, a lot of  
23 documents that have nothing to do with the MarkMonitor program  
24 that was involved in sending notices to Cox.

25 So MarkMonitor has been involved in a variety of

1 different enforcement programs over the years for the  
2 plaintiffs. And so, just searching kind of generically for  
3 MarkMonitor documents pulls up a lot of -- a lot of documents  
4 that are wholly irrelevant and, frankly, would reveal  
5 anti-piracy efforts that would be highly confidential, Your  
6 Honor.

7           So we have tried to -- to target what is appropriate  
8 here. If the defendants want to have a bilateral ESI  
9 discussion, I think that would be great. We ought to do that.  
10 Maybe Your Honor would encourage that to happen. I don't -- I  
11 am not in a position to do what Mr. Buchanan asks and have a  
12 discussion through Your Honor of our ESI search terms here  
13 today.

14           THE COURT: Well, why -- help me understand why you  
15 limited the expansion of the results of your search to 2010  
16 only having to do with the reliability issue.

17           Is that what you indicated? That otherwise you were  
18 going from 2012 to 2014, but for documents relating to the  
19 reliability of the way that MarkMonitor generated the notices  
20 and sent the notices, you were going back to 2010. Is that  
21 what you are saying?

22           MR. OPPENHEIM: So on the issue of -- I don't know  
23 word to use other than reliability, but how effective the  
24 MarkMonitor system was, we recognize that that's a generic,  
25 overall, over-encompassing issue and agreed to produce that

C E R T I F I C A T E   o f   T R A N S C R I P T I O N

I hereby certify that the foregoing is a true and accurate transcript that was typed by me from the recording provided by the court. Any errors or omissions are due to the inability of the undersigned to hear or understand said recording.

Further, that I am neither counsel for, related to, nor employed by any of the parties to the above-styled action, and that I am not financially or otherwise interested in the outcome of the above-styled action.

/s/ Norman B. Linnell

Norman B. Linnell

Court Reporter - USDC/EDVA